

Worth County / IUOE Local 234 (Sheriff)

2006-2007
CEO: 1162
SECTOR: 2

In the matter of
Arbitration between;

*Report of Arbitrator
*PERB - CEO #1162, Sector 2

WORTH COUNTY

And

IUOE Local 234 (Sheriff's Department)

ARBITRATOR MARLA A. MADISON

REPORT DATE JUNE 27, 2007

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HEARING AND APPEARANCES

On June 14, 2007, I conducted an arbitration hearing between Worth County and Worth County Sheriff's Office, IUOE Local 234, the parties hereafter referred to as the County and the Union. The hearing was held in the Worth County courthouse, located in Northwood, IA. This hearing follows the direction of the Iowa Public Employment Relations Act.

Representatives for the County:

Renee Von Bokern, Consultant
David Gentz, Sheriff, Worth County

Representatives for the Employees:

MacDonald Smith, Attorney
Kevin Holzhauser, IUOE

During the hearing, the parties were given full opportunity to present evidence and to rebut the other party's evidence. Both parties presented written and oral exhibits. Entered into evidence were Union exhibits 1 through 3, and County exhibits, presented in a binder, unnumbered. The Union made the first oral presentation.

The following rationale of this Arbitrator will be based upon the oral presentations of the parties and the exhibits submitted, even those not specifically referred to in this document.

BACKGROUND

Worth County is a small county, population 7773, located in the far middle northern area of the state of Iowa. Its northern border is common with Minnesota. The county has two work groups represented by Unions, the Sheriff's Office and the Roads Department. The group represented by the IUOE Local 234, the Sheriff's Office, has 6 deputies, 8 Dispatcher/Jailers, a Clerk, a PT Matron, and a PT Bailiff, a total of 17 employees. Negotiations for the 2007-2008 contract resulted in two impasse items which are now before the arbitrator.

STATEMENT OF IMPASSE ITEMS

The parties presented two impasse items to the Arbitrator. The items and the positions of the parties are as follows;

I WAGES

County - Increase current wage rate by 3.25%

IUOE - Increase current wage rate by 3.5%

II ARTICLE 4 - HOURS OF WORK AND OVERTIME

County - No change to current contract.

IUOE - Delete last sentence of Article 4; Only hours worked shall be counted for the purpose of computing overtime.

Insert; All paid time, except compensatory time, shall be counted for the purpose of computing overtime.

POSITION OF THE COUNTY

The County states the fact that Worth county is the smallest county in the area and has the lowest per capita personal income. Also the county states that the taxes in Worth County paid per capita rank 3rd in the state, and the County spends more per capita than all but one of the neighboring counties. And a large portion of that spending goes to wages and benefits of employees. Comparison of Worth County to the comparability group used by the County supports these statements. The County states that this should be taken into consideration per Chapter 20, 20.22, 8.b, "giving consideration to factors peculiar to the area".

The comparability group used by the County includes the contiguous counties of Winnebago, Hancock, Mitchell and Floyd, and counties which border these, Kossuth, Howard and Chickasaw. This comparability group supports the fact that, taking into consideration the additional pay given Worth County employees in the form of longevity pay, the wage rate of an employee with 15 years longevity is slightly above average for the area. The County has left out contiguous county Cerro Gordo whose population is considerable larger than that of Worth County.

The County maintains that considering the complete compensation package received by Worth County employees, which includes maintaining the status quo on health insurance, and the inferior economic position of Worth County, the 3.25% wage increase proposed by the county is reasonable. The County further maintains that those factors also make the union's proposal to include all paid time towards the calculation of overtime, to be an excessive financial burden to the County. They estimate that even using Holiday Pay hours alone, this would result in a \$25, 000 increase in costs per year. And using the County's comparability group, Mitchell County appears to be the only county calculating overtime for all paid time, and Howard County only uses paid time for Holiday pay.

According to the County, comparing the deputy Sheriffs group to that of the Roads Department, which does have overtime pay based on all paid time with the exception of compensatory time, is not relevant since the Roads Department, unlike the Sheriffs Office, does not have a 24/7 work schedule and can control its overtime use.

POSITION OF THE UNION

The Union states that it is difficult to establish a comparability group for Worth County due to its small size. And it is critical to maintain where these employees are in relationship to their comparability group. The Union's comparability group expands on that of the County and also includes Pocahontas, Palo Alto, Humboldt, Calhoun, Emmet, Franklin, Grundy, Wright, Butler, Hamilton, Hardin, Buchanan, Winneshiek, Fayette, and Cerro Gordo. The Union also points out that some of these counties in their comparability group, three of whom are used by the county in its comparability list, are not organized. On the Unions comparability list, 7 of the counties are not organized. Wage increases for this contract year in the Union's comparability group support the Union's position of a 3.5% increase for its members. And the Union shows that the cost difference between their wage proposal and the wage proposal of the County is only a difference in cost of \$1,265.

Nine of the counties used by the Union have some form of overtime computed using paid time. Humboldt, Calhoun, Franklin, Hardin, and Cerro Gordo all have overtime computed using all paid time. Pocahontas uses all paid time excluding sick leave. Palo Alto only includes vacation time. Hamilton and Fayette include vacation time and holiday time.

The Union believes that Worth County Sheriff's Department is about 2 people short for the roads covered, and this shortage forces the employees to have an excessive overtime burden. And because of this these employees should have their overtime calculation include all paid time with the exception of compensatory time as in the County's contract with the Road Department. While not all of the Union's comparable counties have this benefit, it is not uncommon. By contract, the Sheriff has the express authority to decide on whether overtime is paid in cash or compensatory time, and the Union believes this factor would make the cost of the additional overtime resulting from its proposal, controllable by the Sheriff. This factor makes the counties \$25,000 cost estimate of the use of Holiday time alone being used in overtime calculation inaccurate.

STATUTORY CRITERIA

Arbitrators in the state of Iowa traditionally refer to the criteria set forth for arbitrators in Section 22.9 of the Act. That Statutory Section provides as follows:

The Arbitrator or panel shall consider, in addition to other relevant factors, the following factors,

- 1) Past collective bargaining contracts between the parties, including the bargaining that lead up to such contracts.
- 2) Comparison of wages, hours, and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and classification involved.
- 3) The interests and welfare of the public, the ability of the public employer to finance economic adjustments, and the effect of such adjustments on the normal standard of services.
- 4) The power of the public employer to levy taxes and appropriate funds for the conduct of its operations.
- 5) Any other relevant factors.

Statutory Arbitrators under Iowa Code 20.21 have generally used these same factors in formulating recommendations. Subject to these provisions, this Arbitrator recommends as follows;

DISCUSSION;

In analyzing the evidence presented in view of the Iowa statutory criteria, the following is discussed:

A. Bargaining History

Bargaining history was not presented by the parties as an item of evidence in this hearing.

B. Comparability

The parties did not stipulate to any agreed on comparability group, nor was any comparability group offered which had previously been used by the parties in earlier negotiations. Both parties commented that it was difficult to establish a comparability group for Worth County.

The comparability group of the County, uses Kossuth, Floyd, Chickasaw, Hancock, Winnebago, Mitchell, and Howard Counties, all contiguous counties except for Howard, Chickasaw, and Kossuth which all border the contiguous counties. An omitted contiguous county was Cerro Gordo which the county points out is too large in population to be comparable to Worth County.

The comparability group used by the Union, also uses contiguous counties, but has included Cerro Gordo which is considerably larger than Worth County. The Union's comparables also include the non-contiguous counties, Emmet, Palo Alto, Pocahontas, Calhoun, Kossuth, Humboldt, Wright, Franklin, Hamilton, Hardin, Butler, Grundy, Howard, Chickasaw, Bremer, Winneshiek, Fayette, and Buchanan. Of this group, Butler, Kossuth, Hamilton, Floyd, Hardin, Buchanan, Winneshiek, Fayette, and Bremer, all have populations two to three times that of Worth County. None of the counties in the Union's group are smaller than Worth County.

This arbitrator agrees with the parties that finding a true comparability group for Worth County is difficult. The County's grouping, using contiguous counties would seem the best, but three of these counties, Winnebago, Hancock and Mitchell, are not organized. In the Union's grouping, these three counties are also included, along with the counties Grundy, Butler, and Bremer, which are also not organized. I believe the best resolution to this dilemma would be for the parties to agree on a grouping. That not being the case, it would seem to make most sense to look at those organized counties closest to the size of Worth, also in the mid northern location of Iowa. That would leave us with Emmet, Palo Alto, Pocahontas, Howard, Humboldt, Calhoun, Wright, Franklin, and Chickasaw counties. Using these counties, the average wage increase is 4.2%. Omitting Calhoun, which appears to be an anomaly at 9.6%, results in an average for the group of 3.57%.

The average wage increase using the County's comparability group is approximately 3.97%. The County, however, using these comparables points out the longevity plan used by the County, raises the actual wages earned, therefore the 3.25% offered by the County is fair, and keeps the employees at the same place comparably.

The Union points out that the longevity pay is only better than other counties after an employee has reached a longevity of greater than 15 years, and most of their employees are much less than 15 year employees.

C & D Ability to Pay

Neither the County or the Employees discussed ability to pay in their exhibits or oral presentations. The County has stated that considering the current tax base and average income of the county, an increase in paid overtime could have a great financial burden.

E. Other relevant factors

The County has used lower per capita income and high taxes paid per capita by the County as a relevant factor which also influences its ability to pay. The Union believes comparison with the Roads department to be a relevant factor despite that the two groups do not do comparable work. This arbitrator will be looking at the guidelines spelled out in the statute, employees doing similar work in geographically similar settings and similar population. While under some circumstances an argument could be made that would compel an arbitrator to compare work groups under the same employer, I do believe the dissimilarity of the work, and, mostly, the widely different work schedules of these two groups, make comparison difficult, in particular in the impact of this particular benefit.

OPINION and AWARD

I WAGES

Since the average wage increase is higher than that offered by Worth County using either the Unions, the County's or using like size organized counties, the wage proposal of the Union would be the one keeping these employees in the middle of the pay scale. The longevity, as argued by the union is just not large enough to impact the wage for comparison purposes until after 12 to 15 years of employment.

AWARD - I hereby award the Union's wage proposal of 3.5%

II OVERTIME CALCULATION

Worth County's proposal to maintain current contract language which states that only worked time will be used in the calculation of overtime is the most reasonable. Again, no matter which set of comparables one looks at, this is not, as the Union points out, a universal benefit. And few of those that do use paid time for overtime calculation, include all paid time. Neither party offered documentation of current overtime use. The Union, in their exhibit #2, did an excellent job of showing how many miles of county roads were covered by Sheriff's departments in the Union's comparability group in an effort to illustrate the shortage in Worth County. However, this becomes a difficult comparison not knowing just how many of the work force in the comparable counties are also Deputy Sheriffs. Also unknown is how much paid time off the other Counties give their employees.

And while I am sympathetic to a work force working short handed, the potential cost of this benefit is prohibitive.

Looking at the Union's bargaining agreement, it can be seen that the employees do have a generous amount of paid time off. Sick days are accumulated at 1 ½ per month, and employees are able to use up to 5 days a year for "care and necessary attention to dependents living in their household". Accumulation of sick time is up to 120 days, and employees with 120 days accumulated receive 2 hours personal time a month, up to a total of 3 days a year. Vacation is one week for one year, two weeks for 2 - 4 years, and three weeks at nine, and on up to a maximum of 5 weeks at 29 years. And vacation time may also be taken in single days and with approval, in as little as 4 hours at a time.

There are 10 paid holidays a year. Employees also get one paid floating holiday a year. Funeral Leave up to 40 hours may be granted with pay for the death of a close relative and up to 24 hours for grandparents and in-laws. And 8 hours may be allowed for an aunt, uncle or cousin. Jury Duty is also fully paid time off, and while, like Funeral Leave, only occasional, it is paid time that would now be calculated towards overtime pay.

The Union stated that they did leave out comp time from use toward overtime calculation in their proposal, and that the Sheriff has the authority to grant overtime as paid or as comp time. And this authority by the Sheriff would make the Union's proposal manageable. However, if indeed this department is working short, with the amount of paid time off this workforce receives, scheduling the amount of comp time that would ensue if all paid time would be calculated as overtime, may be an impossibility.

The Union did not agree with the County's estimate that even using Holidays, the increased cost would be around \$25,000. Whether or not one agrees with this figure, the generous amount of total paid time off given this workforce makes this benefit difficult to award.

AWARD - I hereby award Worth County's proposal of maintaining the current contract language for Article 4, Hours of Work and Overtime.

A handwritten signature in cursive script, appearing to read "Marla A. Madison", is written over a horizontal line.

MARLA A. MADISON

Arbitrator

June 26, 2007

Chetek, WI 54728

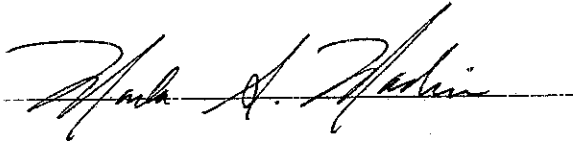
CERTIFICATE OF SERVICE

I hereby certify that on June 27, 2007, I sent a copy of the above report and award to the following parties by mailing a copy to them at their respective addresses show below.

Public Employment Relations Board
510 E 12th Street, Ste. 1B
Des Moines, IA 50319

Renee Von Bokern
2771 104th Street, Ste. H
Des Moines, Iowa 50322

MacDonald Smith
530 Frances Building
505 Fifth Street
P.O. Box 1194
Sioux City, Iowa 51102

A handwritten signature in cursive script, reading "Marla A. Madison", written over a horizontal line.

MARLA A. MADISON
June 27, 2007